

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CHARLES DAVID BROOKS, #1043239,

Plaintiff,

v.

ORAN K. LIVELY, *et al.*,

Defendants.

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Case No. 6:19-CV-577-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. Docket No. 3. The Report and Recommendation of the Magistrate Judge (Docket No. 18) recommended that the action be dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). The Magistrate Judge further recommended that Plaintiff's motion to proceed *in forma pauperis* (Docket No. 6) be denied. Plaintiff timely filed objections. Docket No. 21.

The Court reviews objected-to portions of the Magistrate Judge's Report and Recommendation de novo. *See* FED. R. CIV. P. 72 and 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).


Having reviewed Plaintiff's objections de novo, the Court concludes that the objections are

without merit and that the findings and conclusions of the Magistrate Judge are correct. Accordingly, it is **ORDERED** that Plaintiff's objections are **OVERRULED** and that the Magistrate Judge's Report (Docket No. 18) is **ADOPTED** as the opinion of this Court. It is further

ORDERED that Plaintiff's motion to proceed in forma pauperis (Docket No. 6) is **DENIED**. It is further

ORDERED that the complaint is **DISMISSED WITH PREJUDICE** for purposes of proceeding *in forma pauperis* pursuant to 28 U.S.C. § 1915(g)—but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. Plaintiff may resume his lawsuit if he pays the entire filing fee of \$400 within thirty days after the entry of the final judgment. It is finally **ORDERED** that all motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this **29th** day of **June, 2020**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE